

1 HONORABLE RICHARD A. JONES  
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10 UNITED STATES DISTRICT COURT  
11 WESTERN DISTRICT OF WASHINGTON  
12 AT SEATTLE  
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15 OLAREE E. HOPPEL,  
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17 Plaintiff,

v.

18 PREMERA BLUE CROSS,  
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20 Defendant.  
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CASE NO. C10-1686 RAJ  
22 ORDER  
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25 This matter comes before the court on *pro se* plaintiff Olaree Hoppel's 60(b)(4)  
26 motion for relief from judgment. Dkt. # 64.

27 “Rule 60(b)(4) applies only in the rare instance where a judgment is premised  
28 either on a certain type of jurisdictional error or on a violation of due process that  
29 deprives a party of notice or the opportunity to be heard.” *United Student Aid Funds, Inc.*  
30 v. *Espinosa*, 559 U.S. 260, 271 (2010). Plaintiff has not alleged either basis. Instead, she  
31 makes allegations of fraud, which would fall under Rule 60(b)(3). However, a motion  
32 under Rule 60(b)(3) “must be made within a reasonable time . . . no more than a year  
33 after the entry of the judgment or order or the date of the proceeding.” Fed. R. Civ. Proc.  
34 60(c)(1). The court entered judgment on May 10, 2011. Dkt. # 53. More than one year  
35 has expired. Additionally, plaintiff’s fraud allegations fail on the merits. Plaintiff did not  
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1 prove by clear and convincing evidence that the judgment was obtained through fraud,  
2 misrepresentation, or other misconduct and that the conduct complained of prevented her  
3 from fully and fairly presenting her case. *Casey v. Albertson's Inc.*, 362 F.3d 1254, 1260  
4 (9th Cir. 2004).

5 For all the foregoing reasons, the court DENIES plaintiff's motion. The court also  
6 declines defendant's request to be relieved from responding to further filings by Ms.  
7 Hoppel. Nevertheless, the court warns Ms. Hoppel that if she files any further motions in  
8 this case, and the court finds the motion to be frivolous, the court will be inclined to grant  
9 any request for attorney's fees incurred as a result of opposing such motions. *See Local*  
10 *Rules W.D. Wash. CR 11(c).*

11 Dated this 5<sup>th</sup> day of November, 2013.

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14 The Honorable Richard A. Jones  
15 United States District Judge  
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